

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

PINNACLE INSURANCE COMPANY, INC.,

Plaintiff

v.

AMERICAN RE-INSURANCE COMPANY,

Defendant

MISC. BUSINESS DOCKET
No.

04 MBD **10144**

MOTION TO QUASH SUBPOENAS DUCES TECUM

Third party deponent Resolutions LLC hereby moves that this Court, pursuant to Rule 45(c)(3)(A)(ii) and (iii) and to Rule 45(c)(3)(B)(iii) quash a subpoena *duces tecum* served upon it by American Reinsurance Company. [A copy of the subpoena is attached hereto as Exhibit A.]

As set forth more fully in the accompanying Memorandum of Law and the attached Affidavit of Carmin C. Reiss, the subpoenas *duces tecum* should be quashed because it seeks a mediator's notes and case file. Such information is confidential and absolutely barred from discovery by the clear prohibition of G.L. c. 233, § 23(c). Wherefore, Resolutions LLC moves that this Court grant this Motion and quash the subpoena *duces tecum* in accordance with Rule 45(c)(3)(A)(ii), because the subpoena seeks the disclosure of privileged and other protected material.

Respectfully submitted,

RESOLUTIONS, LLC

by its attorneys,

A handwritten signature in black ink, appearing to read "David S. Mortensen", is written over a horizontal line.

David S. Mortensen (BBO # 357080)

Amy M. McCallen (BBO # 643567)

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DATED: May 14, 2004

CERTIFICATE OF SERVICE

I, Linda P. Phomsouvanh, hereby certify that I have this day served copies of the foregoing Motion to Quash Deposition Subpoena *Duces Tecum* upon the parties to the underlying action by sending copies thereof via facsimile transmission and by U.S. Mail, by their respective counsel as follows:

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Attorneys for defendant American Re-insurance Company

DATED: May 14, 2004

Linda P. Phomsouvanh